

***United States Court of Appeals
for the Second Circuit***



APPELLEE'S BRIEF

Signed

77-6105

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

IVAN S. FISHER,

Plaintiff-Appellant

v.

UNITED STATES OF AMERICA,

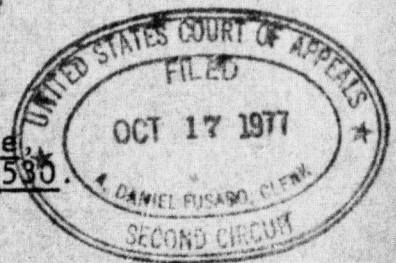
Defendant-Appellee

ON APPEAL FROM THE JUDGMENT OF THE UNITED STATES
DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

BRIEF FOR THE APPELLEE

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TABLE OF CONTENTS

	Page
Statement of the issue presented -----	1
Statement of the case -----	2
Summary of argument -----	9
Argument:	
The District Court correctly held that Gomez Londono's assignment to appellant of funds seized from Gomez Londono in the belief that they were subject to forfeiture under Section 1102, 31 U.S.C. was barred by the Anti-Assignment Act, Section 203, 31 U.S.C.; and that the income tax levy challenged here was therefore valid -----	11
Conclusion -----	19
Appendix A -----	21
Appendix B -----	23

CITATIONS

Cases:

<u>Cargo, In re, of Intoxicating Liquors,</u> 40 F. 2d 72 (E.D. N.Y., 1929) -----	13, 14
<u>Goodman v. Niblack,</u> 102 U.S. 556 (1880) -----	12, 16
<u>Hobbs v. McLean,</u> 117 U.S. 567 (1886) -----	12, 16, 18
<u>Ideal, Matter of, Mercantile Corp.,</u> 244 F. 2d 828 (C.A. 2, 1957), cert. denied, 355 U.S. 856 (1957) -----	12, 13, 14, 15, 16
<u>Ivers v. United States,</u> 413 F. Supp. 394 (N.D. Calif., 1975) -----	15, 19
<u>King v. United States,</u> 292 F. Supp. 767 (Colo., 1968) -----	15
<u>Spofford v. Kirk,</u> 97 U.S. 484 (1878) -----	12, 16
<u>Stuyvesant Insurance Co. v. United States,</u> (Civil Action No. 77 Cl639, E.D. N.Y.) --	2, 17, 18
<u>Truth Seeker Co. v. Durning,</u> 147 F. 2d 54 (C.A. 2, 1945) -----	15
<u>United States v. Aetna Surety Co.,</u> 338 U.S. 366 (1949) -----	12, 16, 18
<u>United States v. Gillis,</u> 95 U.S. 407 (1877) --	12, 13, 14

Cases (continued):

<u>United States v. One 1964 MG, Serial No.</u> <u>64C-HN3L-34408, Etc. (W.D. Wash.,</u> <u>1976)</u> -----	19
<u>United States v. Shannon, 342 U.S. 288</u> <u>(1952)</u> -----	12, 16, 17, 18
<u>United States v. \$22,993,000 in Currency,</u> <u>332 F. Supp. 1277 (E.D. La., 1971)</u> -----	14

Statutes:

Act of October 26, 1970, P.L. 91-508, 84 Stat. 1114:	
Sec. 231 (31 U.S.C. § 1101) -----	11, 21
Sec. 232 (31 U.S.C. § 1102) -----	11, 21
Sec. 234 (31 U.S.C. § 1104) -----	14, 21
Internal Revenue Code of 1954 (26 U.S.C.):	
Sec. 6331 -----	2, 7
Sec. 6851 -----	2, 7
Sec. 7426 -----	7
Revised Statutes, Sec. 3477 (31 U.S.C. § 203)	11, 21
18 U.S.C.:	
§ 922 -----	5
§ 1001 -----	4, 6

Miscellaneous:

Treasury Department Regulations on Finance Recordkeeping and Reporting of Currency and Foreign Transactions -----	6
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Defendant-Appellee

ON APPEAL FROM THE JUDGMENT OF THE UNITED STATES
DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

STATEMENT OF THE ISSUE PRESENTED

Whether the District Court correctly held that Gomez Londono's assignment to appellant of funds seized from Gomez Londono, in the belief they were subject to forfeiture under Section 1102, 31 U.S.C., was barred by the Anti-Assignment Act, Section 203, 31 U.S.C., and that the income tax levy challenged here was therefore valid.

STATEMENT OF THE CASE

Appellant Ivan Stephan Fisher brought this wrongful levy action pursuant to Section 7426 of the Internal Revenue Code of 1954 in an attempt to recover \$55,784 from the United States. (R. A-1, A-7, A-9, A-64, A-65.)^{1/} Acting pursuant to the forfeiture provisions of Section 232, Act of October 26, 1970, P.L. 91-508, 84 Stat. 1114 (31 U.S.C. § 1102), the United States Customs Service seized the funds in issue from Henry Gomez Londono on February 22 and 24, 1976.^{2/} (R. A-7, A-10.) Appellant contends that Gomez Londono assigned his interest in the funds to him on March 5, 1976. (R. A-4.) Pursuant to Sections 6331 and 6851 of the Code, the Internal Revenue Service levied on \$50,795.25 of the funds on December 1, 1976, for payment of income taxes assessed against Gomez Londono for the taxable period January 1, 1976 through May 7, 1976. (R. A-60, A-61.)

The United States District Court for the Eastern District of New York (Judge Dooling) held that the alleged assignment was void against the United States under the statute commonly known as the Anti Assignment Act (Revised Statutes, Sec. 3477) (31 U.S.C. § 203). The Court granted summary judgment for the Government and entered judgment accordingly on May 16, 1977. (R. A-3, A-4-A-23, A-56.) Appellant filed a notice of appeal on June 24, 1977. (R. A-3, A-57.) Section 1291, 28 U.S.C. confers jurisdiction on this Court.

^{1/} "R." references are to the separately bound record appendix.

^{2/} Although there is some inconsistency in the record with respect to the precise amount in issue here (R. A-1, A-7, A-9), \$55,784 appears to be the amount seized by the Customs Service (R. A-64, A-65). The United States has informed the District Court in a related case, Stuyvesant Insurance Co. v. United States (Civil Action No. 77 Cl639, E.D. N.Y.), that its claim to the funds is limited to the amount of the income tax levy in issue here.

The pertinent facts are:^{3/}

In February of 1976, agents of the Drug Enforcement Administration (DEA) informed United States Customs Service agents that, according to a reliable DEA informant, one Henry Gomez Londono would leave New York for Colombia, South America, between February 21st and 25th, carrying \$100,000 for a drug transaction. Acting on this information, two plainclothes customs officers, Agent Healy and Agent Annunziato, began surveillance of the Avianca Airlines departure area at Kennedy International Airport on February 21, 1976. (553 F. 2d, p. 807.)

The following day, February 22, 1976, Avianca employees informed the customs agents that Gomez Londono was in the Avianca terminal area. After observing him and concluding that he matched the description supplied by the DEA informant, the agents stopped Gomez Londono. They informed him that he was required to make a report declaring any currency in excess of \$5,000 that he was taking out of the country. The agents then asked Gomez Londono if he were carrying more than that amount. (553 F. 2d, p. 807.)

Gomez Londono initially said he was taking only \$900 and showed the agents some cash he was carrying in his pocket. After further questioning, he handed the agents an envelope from his jacket pocket. He said he did not know what the envelope contained, and that he had been asked to deliver it to Bogata, Colombia. The envelope contained \$10,000 in \$100 bills and a photo of Gomez Londono. (553 F. 2d, p. 807.)

^{3/} Some of the facts relevant here were established in United States v. Gomez Londono, 422 F. Supp. 519 (E.D. N.Y., 1976), rev'd, 553 F. 2d 805 (C.A. 2, 1977). These decisions will be referred to where appropriate in this brief.

Acting pursuant to Sections 209, 210, 231 and 232 of the Act of October 26, 1970, supra (31 U.S.C. §§ 1058, 1059, 1101, 1102), the agents arrested Gomez Londono and seized the cash he was carrying, which totaled \$11,004, and his baggage, which had been placed aboard an Avianca aircraft. (R. A-7; 553 F. 2d, p. 807.) Section 1101 requires the filing of a report when more than \$5,000 is taken out of the United States, and Section 1102 provides for the seizure and forfeiture of funds transported in violation of Section 1101. Sections 1058 and 1059 provide criminal penalties for willful violations of Section 1101.

On February 23, 1976, the morning following his arrest, Gomez Londono was arraigned, and on February 24, 1976, Agent Annunziato obtained a search warrant for the seized baggage. The warrant cited Sections 1058 and 1101, 31 U.S.C., and Section 1001, 18 U.S.C. as the statutes believed to have been violated. (553 F. 2d, p. 807.) Section 1001 is the general perjury statute which punishes the willful making of false statements in matters within the jurisdiction of the United States. A search of the baggage made pursuant to the warrant revealed \$44,780 in cash and two loaded .38 caliber revolvers. (R. A-9; 553 F. 2d, p. 807.)

On March 2, 1976, a federal grand jury returned a three-count indictment against Gomez Londono. He was charged in count one with willfully making false statements to the customs agents in violation of Section 1001, 18 U.S.C. He was charged in count

two with willfully transporting the \$44,780 found in his baggage without filing the report required by Section 1101(b), 31 U.S.C., in violation of Section 1058, 31 U.S.C. Count three charged Gomez Londono with delivering firearms for transportation in foreign commerce without appropriate notice to Avianca, in violation of Section 992(e), 18 U.S.C. (553 F. 2d, p. 807.)

On the same day the indictment was returned, March 2, 1976, the United States Customs Service sent Gomez Londono a letter informing him that he had incurred the forfeiture of the \$11,004 taken from his person at the airport. The letter was sent to a Jackson Heights address obtained by customs agents at the time of Gomez Londono's arrest. The letter stated that he had the right to petition for administrative relief from the forfeiture. (R. A-64.) A similar letter was sent by the Customs Service to Gomez Londono on April 2, 1976, with respect to the \$44,780 confiscated from his baggage. Both letters were returned by the Post Office undelivered. (R. A-9, A-10.)

On March 5, 1976, three days after the indictment was returned, Gomez Londono allegedly assigned his interest in the seized funds to appellant in exchange for legal representation in his criminal prosecution. (R. A-58.) Prior to the alleged assignment, appellant informed Gomez Londono the funds might be legally retained by the Government, for income taxes or other purposes, even if they were suppressed as evidence in the criminal prosecution. (Fisher Dep. 23-27; Londono, Dep. 15.) Gomez Londono also paid appellant \$10,000 in cash. (Fisher Dep. 19-20.)

On March 12, 1976, Gomez Londono was released on bail upon the application of appellant. The likelihood of forfeiture proceedings in the event Gomez Londono was convicted was recognized at the bail hearing. (R. A-9--A-10.)

In May of 1976, appellant assigned his interest in \$25,000 of the seized funds to Stuyvesant Insurance Company to obtain bail for Henry Gomez Londono's brother, Mario, who was being held on drug charges. Mario jumped bail after his release. (R. A-5; Fisher Dep. 29-38.)

During the criminal proceedings against him, Henry Gomez Londono moved to suppress all the evidence stemming from his arrest and the execution of the search warrant. The District Court on November 17, 1976, held that although Gomez Londono had surrendered his baggage to Avianca at the time of his arrest, he had not given up his boarding pass or boarded the plane, and consequently had not reached the "time of departure" prescribed by the Regulations under Section 1101 (Treasury Department Regulations on Finance Recordkeeping and Reporting of Currency and Foreign Transactions § 101.25(b) (31 C.F.R.)), as the point at which a report must be filed. The court held he therefore had not violated Sections 1058 and 1101, 31 U.S.C.. It further found Gomez Londono had not violated the perjury statute, Section 1001, 18 U.S.C. The court also held that since Gomez Londono had not committed the crimes charged in counts one and two, the evidence was illegally seized. (422 F. Supp., p. 519.)

On appeal, the Government did not challenge the District Court's decision with respect to counts one and two, but contended

the court erred in holding the evidence was illegally seized. In an opinion filed April 18, 1977, this Court agreed with the Government and reversed the District Court's suppression order, clearing the way for prosecution of Gomez Londono on the fire arms charge in count three of the indictment. (533 F. 2d 805.)

On December 1, 1976, a District Director of Internal Revenue determined pursuant to Section 6851 of the Internal Revenue Code that Gomez Londono designed to take action to prejudice the collection of his income taxes for the period January 1, 1976 to May 7, 1976. The District Director therefore declared that taxable period terminated, assessed income taxes of \$50,795.25 against Gomez Londono and levied on the funds held by the Customs Service pursuant to Section 6331 of ^{4/}the Code. (R. A-60-A-61; Notice of Levy, Appendix B, infra.) Section 6331 allows an immediate levy where collection of the tax is determined to be in jeopardy.

On December 8, 1976, appellant filed his complaint in the instant action pursuant to Section 7426 of the Code. (R. A-24.) In accordance with Section 7426(c), he did not contest the validity of the income tax assessment against Gomez Londono. Rather, he contended the levy was wrongful because it occurred following Gomez Londono's allegedly unconditional assignment of the funds to him on March 5, 1976. The Government argued in the proceedings below that the entire amount seized from Gomez Londono

^{4/} The notice of levy is attached to this brief as Appendix B, infra, for the convenience of the Court.

had not been unconditionally assigned to appellant and that, in any event, any assignment of the funds was barred by the Anti-Assignment Act, Section 203, 31 U.S.C. (R. A-4, A-5.) Section 203 provides that any assignment of a claim against the United States is void unless it has been allowed by the Government and certain other requirements are met.

Both sides moved for summary judgment, and the District Court determined that it was unnecessary to decide whether the assignment was unconditional, since any assignment of the funds was barred by the Anti-Assignment Act. The court accordingly granted summary judgment for the Government, and this appeal followed. (R. A-56, A-57.)

On August 10, 1977, Stuyvesant Insurance Company filed a complaint in the United States District Court for the Eastern District of New York seeking to recover \$25,000 of the funds in issue from the United States. Stuyvesant claims it is entitled to the funds by virtue of the assignment by appellant in May of 1976 to secure bail for Mario Gomez Londono. (Civil Action No. 77 Cl639, E.D. N.Y.) This action is still pending in the District Court.

SUMMARY OF ARGUMENT

The \$55,784 involved in this action was seized by United States customs agents from one Henry Gomez Londono. The agents seized the funds because they believed that statutory provisions were applicable which require the filing of a report when more than \$5,000 in currency is taken out of the United States and which also provide for the forfeiture of funds transported in violation of the reporting requirement.

Appellant Fisher claims he is entitled to the funds by virtue of an alleged assignment of the funds to him by Gomez Londono on March 5, 1976. This contention is erroneous since any assignment of the funds was barred by the Anti-Assignment Act, Section 203, 31 U.S.C. The Government therefore is entitled to \$50,795.25 of the funds by virtue of a December 1, 1976, income tax levy against them for taxes owed by Gomez Londono.

The Anti-Assignment Act prohibits the assignment of "any claim upon the United States." 31 U.S.C. § 203. The relevant judicial decisions and the Congressional policy underlying the statute demonstrate that a "claim" within the meaning of the statute includes a claim involving property seized by the United States in the belief that it is subject to forfeiture, even though it ultimately is determined that the United States does not have a valid claim for forfeiture of the funds. There consequently is no merit to appellant's contention that the Anti-Assignment Act applies only to claims against property owned by the United States.

Nor is there any validity to appellant's alternative argument that, if the Anti-Assignment Act applies here, it bars assignment only of those funds with respect to which a notice of forfeiture was given prior to the alleged assignment. A claim within the meaning of the Anti-Assignment Act arises at the time a seizure subject to forfeiture occurs, and assignment of the claim against the United States for the property is barred from that time on. The requirement that notice of forfeiture be given with respect to seized funds believed to have been transported in violation of the reporting requirement is for the protection of the owner of the funds. It has nothing to do with the operation of the Anti-Assignment Act, which is for the protection of the Government against third persons, such as appellant here.

The decision of the District Court should therefore be affirmed.

ARGUMENT

THE DISTRICT COURT CORRECTLY HELD THAT GOMEZ LONDONO'S ASSIGNMENT TO APPELLANT OF FUNDS SEIZED FROM GOMEZ LONDONO IN THE BELIEF THAT THEY WERE SUBJECT TO FORFEITURE UNDER SECTION 1102, 31 U.S.C. WAS BARRED BY THE ANTI-ASSIGNMENT ACT, SECTION 203, 31 U.S.C., AND THAT THE INCOME TAX LEVY CHALLENGED HERE WAS THEREFORE VALID

The sole issue in this case is whether Henry Gomez Londono's alleged assignment to appellant of the funds seized from him by customs agents pursuant to their belief that Sections 231 and 232 Act of October 26, 1970, P.L. 91-508, 84 Stat. 1114 (31 U.S.C. §§ 1101, 1102), Appendix A, infra, applied, was barred by the statute commonly known as the Anti-Assignment Act (Revised Statutes, Sec. 3477) (31 U.S.C. § 203), Appendix A, infra. Section 1101 requires the filing of a report when more than \$5,000 is transported into or out of the United States. Section 1102, provides that funds transported in violation of Section 1101 are subject to seizure and forfeiture to the United States. The Anti-Assignment Act, Section 203, 31 U.S.C., prohibits assignment of claims against the United States. With certain exceptions not applicable here, Section 203 provides in pertinent part that:

All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor * * * shall be absolutely null and void * * *.

We submit that the assignment was barred, and that the District Court therefore correctly rejected appellant's claim that the income tax levy in issue here was wrongful. Appellant's

primary contention on appeal is, in essence, that a "claim upon the United States" within the meaning of the Anti-Assignment Act is limited to a claim against property owned by the United States. (Br. A-13--A-25.) He argues that ownership of the funds in issue never passed to the United States, and that the alleged assignment consequently was not barred. This contention is unsound in light of the language of the statute and the Congressional policy underlying its enactment.

The Anti-Assignment Act was enacted in 1853 to cure a number of evils, some of which are graphically illustrated by this case. The statute was intended, inter alia, to prevent the Government from being harrassed by multiple lawsuits growing out of the same claim and to avert the possibility of double payment of a single claim. It also was intended to avert the necessity of the Government's investigating the validity of alleged assignments and to preserve the Government's rights to set off and counterclaim against the original claimant. See e.g. United States v. Shannon, 342 U.S. 288, 291-292 (1952); United States v. Aetna Surety Co., 338 U.S. 366, 373 (1949); Hobbs v. McLean, 117 U.S. 567, 576 (1886); Goodman v. Niblack, 102 U.S. 556, 560 (1880); Spofford v. Kirk, 97 U.S. 484 (1878); Matter of Ideal Mercantile Corp., 244 F. 2d 828 (C.A. 2, 1957), cert. denied, 355 U.S. 856 (1957).

The courts have broadly construed the Anti-Assignment Act to carry out the congressional purpose. As the Supreme Court stated in United States v. Gillis, 95 U.S. 407, 413 (1877):

No language could be broader or more emphatic than these enactments. The words embrace every claim against the United States, however arising, of whatever nature it may be, and wherever and whenever presented.

Contrary to the contention of appellant here (Br. 13-25), a "claim upon the United States" within the meaning of the Anti-Assignment Act includes claims involving funds and other property whose ownership is in dispute. United States v. Gillis, supra, p. 412; Matter of Ideal Mercantile Corp., supra; In re Cargo of Intoxicating Liquors, 40 F. 2d 72 (E.D. N.Y., 1929).

United States v. Gillis, supra, involved the proceeds of property seized under the Captured and Abandoned Property Act. The Supreme Court held (95 U.S., p. 412) the assignment of those proceeds was invalid under the Anti-Assignment Act, whether the proceeds were viewed as had and received for the use of the assignor, or held in trust for him, or as due him under the terms of the Captured and Abandoned Property Act. It is therefore clear that title to property involved in a disputed assignment need not be in the United States in order to invoke the Anti-Assignment Act.

The decision of this Court in Matter of Ideal Mercantile Corp., supra, is in accord. There, the Anti-Assignment Act was held applicable to a claim for refund of funds paid to the Government under protest for disputed customs duties. In re Cargo of Intoxicating Liquors, supra, which is closely analogous

to the case at bar, involved property which the Government erroneously claimed under a statute providing for forfeiture of illegally imported intoxicants. The court there held that an attempted assignment of the owner's rights to the intoxicants was invalid ab initio (40 F. 2d, pp. 73-74):

At the time the alleged bill of sale was executed by the administratrix of the estate of Frederick W. Carline * * * [the owner of the liquor at the time of the seizure] there was no change of possession, as the property was not in the possession of the said administratrix but of the respondent the United States of America, and what was really transferred by said alleged bill of sale was a claim against the United States for the return of said cargo or its value.

It is therefore apparent that, for purposes of the Anti-Assignment Act, Gomez Londono's interest in the funds in issue here was a "claim upon the United States." The sole decision to the contrary relied upon by appellant (Br. 16-19) for the proposition that the Anti-Assignment Act only operates where the United States has title to the property in issue, United States v. \$22,993.00 in Currency, 332 F. Supp. 1277 (E.D. La., 1971), clearly was wrongly decided in light of Gillis, Matter of Ideal Mercantile and In re Cargo of Intoxicating Liquors, all supra.

It is equally clear Gomez Londono's claim arose at the time of the seizure. Gomez Londono had a right to seek administrative relief from the seizure subject to forfeiture under Section 234, Act of October 26, 1970, supra, (31 U.S.C. § 1104), Appendix A, infra. He also had a right to seek a judicial order compelling

the institution of forfeiture proceedings. Truth Seeker Co. v. Durning, 147 F. 2d 54, 56 (C.A. 2, 1945). Since "both alternatives have been available ever since seizure", Ivers v. United States, 413 F. Supp. 394 (N.D. Calif., 1975), the time of seizure is clearly the point at which Gomez Londono's claim came into existence and the point at which the Anti-Assignment Act came into play. And, as this Court noted in Matter of Ideal Mercantile Corporation, 244 F. 2d, p. 832, the proscriptions of the Anti-Assignment Act remain in effect to bar the enforcement of an assignment up until the time of payment of the claim by the Government. Thus, at all times pertinent here, the Act was effective to bar assertion of any claim by the appellant against the United States based upon the assignment. Since this is so, it is immaterial that forfeiture never actually occurred here because the customs agents stopped Gomez Londono on his way to the Avianca aircraft rather than after he surrendered his boarding pass. The cases cited by appellant (Br. 27-28) dealing with the time when forfeiture occurs and title passes consequently are not relevant to the issue here.

The same may be said for the cases relied on by appellant involving the weapons used in the murders of President Kennedy and Dallas Policeman J. D. Tippit. (Br. 22-25.) Those weapons were seized by the Government as evidence and were not subject to forfeiture at the time of the seizure. Since the Government at the time of the seizure asserted no right to the weapons, no conflicting claim arose on the part of the person who owned the weapons when they were seized. King v. United States,

292 F. Supp. 767 (Colo., 1968). Here, the Government proceeded under the forfeiture provisions of Section 1102, 31 U.S.C., supra, from the outset, and appellant and Gomez Londono were well aware of that fact. (R. A-7, A-10; Fisher Dep. 23-27; Gomez Londono Dep. 15; 553 F. 2d, p. 807.) Consequently the Anti-Assignment Act clearly barred the alleged assignment of the funds in issue.

This result not only is required by the well established case law. It is necessary to implement the Congressional policy underlying the statute. Congress obviously intended the Anti-Assignment Act to apply to claims involving property ultimately determined to be erroneously claimed by the Government.

If the statute were intended to apply only in those cases where title to the property in dispute is ultimately found to be in the United States, many of the evils the statute was designed to cure, discussed supra, page 12, would never arise. There would be no risk of paying the same claim more than once and no necessity for the Government to investigate alleged assignments, since such claims would not be paid by the Government in any event. Nor would the Government be deprived of any rights to set off and counterclaim, since such rights would not arise with respect to its own property. United States v. Shannon, United States v. Aetna Surety Co., Hobbs v. McLean, Goodman v. Niblack, Spofford v. Kirk, Matter of Ideal Mercantile Corp., all supra.

Appellant attempts (Br. 31) to diminish the importance of the policy considerations underlying the statute by dismissing them as "more theoretical than real." The facts of this case graphically illustrate that this is not so. A second lawsuit already has been initiated in which Stuyvesant Insurance Company claims \$25,000 of the funds claimed by appellant here, due to appellant's assignment to Stuyvesant to secure bail for Gomez Londono's brother Mario. (Stuyvesant Insurance Co. v. United States, Civil Action No. 77 Cl639, E.D. N.Y.; Fisher Dep. 29-38.) If the Anti-Assignment Act were held inapplicable here, the United States would be directly confronted with the multiple claims and with the necessity to investigate the alleged assignments involved. In addition, there is a possibility that it would lose rights to set off and counterclaim. In view of this, it would be difficult to hypothesize a case more "productive of the very evils which Congress intended to prevent." United States v. Shannon, supra, p. 293.

Nor is the possibility of multiple claims against the Government lessened by appellant's assertion that "Gomez Londono, of course, would have no viable claim that the United States wrongfully delivered possession of the money to Fisher; to thus disavow the assignment exposes him to the income tax liability the IRS has assessed against him." (Br. 31.) Gomez Londono is, of course, liable for the income taxes assessed against him whether or not he attacks the assignment. It clearly would be to his benefit to have the funds in issue here applied to satisfy this tax liability or for some other purpose.

Since the court below specifically found that there is a genuine issue of material fact as to the validity of the alleged assignment to appellant (R. A-4--A-5) the possibility of an attack on its validity by Gomez Londono can hardly be ruled out. Indeed, that possibility, together with the action initiated by Stuyvesant and the uncertainty as to what other claims may exist against the funds in issue, typify the very real problems the Anti-Assignment Act was intended to avert. In the words of the Supreme Court, "One of Congress' basic purposes in passing the Act was 'that the government might not be harassed by multiplying the number of persons with whom it has to deal.' Hobbs v. McLean, 117 U.S. 561, 576 (1886). See also United States v. Aetna Surety Co., supra." United States v. Shannon, supra, p. 293.

Appellant's alternative contention (Br. 26, 27) that, if the Anti-Assignment Act applies here, it at most bars the assignment of only the \$11,004 seized from Gomez Londono at the airport also is without merit. Appellant argues that the assignment on March 5, 1976, of the \$44,780 seized from Gomez Londono's baggage was not barred because Gomez Londono did not receive a notice of forfeiture with respect to those funds until April 2, 1976. As we have demonstrated supra, however, Gomez Londono's claim against the United States arose at the time of the seizures on February 22 and 24, 1976, and that is when the Anti-Assignment Act came into play. It is true that the owner of property seized under Section 1102, 31 U.S.C., is entitled to notice of

forfeiture within a reasonable time. See Ivers v. United States, 413 F. Supp. 394, 400 (N.D. Calif., 1975), where the court found notice sent 25 days after seizure was reasonable and United States v. One 1964 MG, Serial No. 64C-HN3L-34408, Etc. (W.D. Wash., 1976), where the court implicitly approved notice given 34 days after seizure. In view of this, the second notice of forfeiture given on April 2, 1976, following seizure on February 24, 1976, was within the reasonable time requirement. But, in any event, the requirement of notice of forfeiture under Section 1102, which is for the protection of the property owner, is simply irrelevant to the application of the Anti-Assignment Act, which is for the protection of the Government against third parties, such as appellant here.

CONCLUSION

The judgment of the District Court should be affirmed.

Respectfully submitted,

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OCTOBER, 1977.

CERTIFICATE OF SERVICE

It is hereby certified that service of this brief has been made on counsel for the appellant by mailing four copies thereof on this 13th day of October, 1977, in an envelope with postage prepaid, properly addressed to him as follows:

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Attorney.

APPENDIX A

Revised Statutes:

Sec. 3477. Assignments of claims; set-off against assignee

All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. * * *

(31 U.S.C. § 203)

Act of October 26, 1970, P.L. 91-508, 84 Stat. 1114:

Sec. 231. Reports

(a) Except as provided in subsection (c) of this section, whoever, whether as principal, agent, or bailee, or by an agent or bailee, knowingly--

(1) transports or causes to be transported monetary instruments--

(A) from any place within the United States to or through any place outside the United States, or

(B) to any place within the United States from or through any place outside the United States, or

(2) receives monetary instruments at the termination of their transportation to the United States from or through any place outside the United States

in an amount exceeding \$5,000 on any one occasion shall file a report or reports in accordance with subsection (b) of this section.

*

*

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(31 U.S.C. § 1101)

Sec. 232. Forfeiture

(a) Any monetary instruments which are in the process of any transportation with respect to which any report required to be filed under section 231(1) either has not been filed or contains material omissions or misstatements are subject to seizure and forfeiture to the United States.

* * *

(31 U.S.C. § 1102)

Sec. 234. Remission by the Secretary

The Secretary may in his discretion remit any forfeiture or penalty under this chapter in whole or in part upon such terms and conditions as he deems reasonable and just.

(31 U.S.C. § 1104)

- 23 -
APPENDIX B

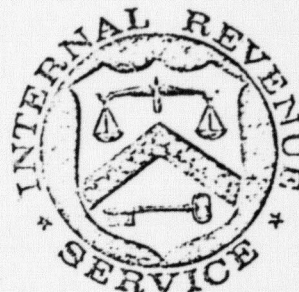
FORM 6607-A
REV. MARCH 1975
DATE

12/1/76

NOTICE OF LEVY

TO

U.S. Customs Agency
JFK Airport
Queens, N.Y.



ORIGINATING DISTRICT

Manhattan

You are hereby notified that there is now due, owing, and unpaid to the United States of America, from the taxpayer, whose name appears below, the sum of **\$ 50,795.25**

KIND OF TAX	TAX PERIOD ENDED	DATE OF ASSESSMENT	IDENTIFYING NO	UNPAID BALANCE OF ASSESSMENT	STATUTORY ADDITIONS	TOTAL
1010	5/7/76	12/1/76	902-19-5105	\$ 50,795.25	\$	\$ 50,795.25
TOTAL AMOUNT DUE						50,795.25

You are further notified that demand has been made for the amount set forth herein upon the taxpayer who has neglected or refused to pay, and that such amount is still due, owing, and unpaid from this taxpayer. Accordingly, you are further notified that all property, rights to property, moneys, credits, and bank deposits now in your possession and belonging to this taxpayer (or with respect to which you are obligated) and all sums of money or other obligations owing from you to this taxpayer, or on which there is a lien provided under Chapter 64, Internal Revenue Code, are hereby levied upon and seized for satisfaction of the aforesaid tax, together with all additions provided by law, and demand is hereby made upon you for the amount necessary to satisfy the liability set forth herein, or for such lesser sum as you may be indebted to him, to be applied as a payment on his tax liability. Checks or money orders should be made payable to the Internal Revenue Service.

SIGNATURE <i>Victor Godfrey</i> Victor Godfrey	TITLE Revenue Officer	ADDRESS (CITY AND STATE) New York, N.Y.
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(Name and Address of Taxpayer)

Henry Gomez Londono
c/o Warden, Queens House of Detention
126-02 82nd Ave.,
Kew Gardens Queens, N.Y. 11415

CERTIFICATE OF SERVICE

I hereby certify that this notice of levy was served by delivering a copy of it to the person named below

NAME
MURRAY JACOBS

TITLE
CHIEF, KING, PEN. FOR

DATE AND TIME
DEC. 1, 1976 11:45 A

SIGNATURE OF REVENUE OFFICER OR SERVICE REPRESENTATIVE

V.F. Godfrey

PART 1-10 TO BE RETURNED TO INTERNAL REVENUE SERVICE

FORM 662-A (REV. 3)

OFFICE OF REGIONAL COUNSEL

RECEIVED
DEC 17 1976